

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : R. F. A. No. 811 of 1991

Date of Decision : May 26, 2009

Gurbachan Singh and others Appellants
Vs.
State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE L. N. MITTAL

* * *

Present : Mr. Vivek Goel, Advocate
for the appellants.

Mr. Arvind Mittal, Addl. A. G., Punjab
for the respondents.

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L. N. MITTAL, J. (Oral) :

By this common judgment, I am disposing of four appeals i.e.

R. F. A. Nos. 811 of 1991, 812 of 1991, 813 of 1991 and 1686 of 1991 as all these four appeals have been preferred by land owners for enhancement of compensation, as awarded by learned Additional District Judge, Faridkot, vide impugned Award dated 01.12.1990, whereby petitions filed by the appellants and many other land owners under Section 18 of the Land Acquisition Act, 1894 (in short – the Act) were disposed of.

State Government, vide notification dated 10.01.1986 issued under Section 4 of the Act, notified land measuring 62 kanals 05 marlas situated in the revenue estate of Village Dhilwan Kalan for acquisition for

public purpose namely for straightening of portion of National Highway No. 15. Land Acquisition Collector, vide Award No. 1 dated 18.06.1986, determined market value of the acquired land @ Rs.30,000/- per acre for *nehri* land measuring 60 kanals 01 marla and @ Rs.20,000/- per acre for the remaining *gair mumkin chhappar* (01 kanal – 06 marlas) and *gair mumkin rasta* (18 marlas). The land owners were not satisfied with the compensation awarded by the Land Acquisition Collector and therefore, filed petitions under Section 18 of the Act claiming compensation at enhanced rate alleging that market value of the acquired land was Rs.1,00,000/- per acre. It may be noticed that before the Land Acquisition Collector, the land owners claimed the market value of the acquired land to be Rs.45,000/- per acre only for *nehri* land.

The respondents controverted the stand of the land owners by filing written statement and pleaded that the Land Acquisition Collector has awarded compensation as per market value.

Following common issued were framed in the cases :-

- “1. *Whether the compensation paid is inadequate ? If so, what compensation should have been paid ? OPA*
2. *Whether the application is not maintainable in the present form ? OPR*
3. *Relief.”*

Learned Additional District Judge, Faridkot vide impugned Award dated 01.12.1990, determined the market value of the acquired land to be Rs.37,000/- per acre for *nehri* land and Rs.27,000/- per acre for the remaining land under issue no.1. Issue no.2 was decided against the respondents as neither pressed nor proved. The reference petitions were accordingly disposed of by awarding compensation for the acquired land at the aforesaid rates.

Feeling dissatisfied, the land owners have filed the instant appeals.

I have heard learned counsel for the parties and perused the case files.

Santa Singh land owner (AW-1) and Sodagar Singh land owner (AW-2) have stated about location of the acquired land. They also stated that its market value was Rs.1,00,000/- per acre at the time of acquisition. Dhanna Singh – retired SDO (AW-3) proved site plan (Ex.A-1) regarding location of the acquired land. He also proved *aks masavi* (Ex.A-2) besides his report (Ex.A-3). The land owners also tendered in evidence judgment dated 09.04.1990 (Ex.A-4) passed by this Court in **R. F. A. No. 466 of 1988** titled **Jai Kaur vs. State of Punjab and another**, whereby bunch of appeals relating to land acquired for establishment of new mandi at Kot Kapura were disposed of, determining the market value to be Rs.37/- per square yard. The land owners also produced copy of sale deed dated 16.06.1987 (Ex.A-5) relating to a plot measuring 01 kanal – 5-1/3 marlas situated in *abadi* of Village Dhilwan Kalan for Rs.25,333/- i.e. at the rate of Rs.1,60,000/- per acre.

On the other hand, respondents produced copies of three sale deeds Ex.R-2 to Ex.R-4. Sale deeds Ex.R-2 and Ex.R-3 are both dated 10.06.1985 regarding sale of 16 kanals land each for Rs.46,000/- i.e. @ Rs.23,000/- per acre. Sale deed Ex.R-4 dated 24.07.1985 is regarding sale of 03 kanals land for Rs.9,000/- i.e. @ Rs.24,000/- per acre.

Learned Additional District Judge found judgment Ex.A-4 of this Court to be not of comparable land and also found sale instance Ex.A-5 produced by the land owners to be not a comparable sale instance. Similarly, sale instances vide sale deeds Ex.R-2 to Ex.R-4 produced by the respondents were also found to be not comparable sale instances because even the Land Acquisition Collector has awarded compensation at a higher

rate than depicted by these sale instances. However, learned Additional District Judge, taking into consideration the location of the acquired land along the National Highway and taking into consideration other circumstances, enhanced the market value of the acquired land by Rs.7,000/- per acre.

Learned counsel for the appellants vehemently contended that judgment Ex.A-4 of this Court pertains to land in Kot Kapura, which is at a distance of about 3 kilometers only from the acquired land and therefore judgment Ex.A-4 should be taken into consideration for determining the market value of the acquired land. The contention cannot be accepted. Santa Singh (AW-1) stated that the acquired land is 2½ to 3 kilometers from the Grain Market, Kot Kapura, to which judgment Ex. A-4 relates. Sodagar Singh (AW-2) stated the said distance to be 2 kilometers. Dhanna Singh (AW-3) stated the said distance to be 3 kilometers. However, learned Additional District Judge has observed that in scaled site plan Ex. A-1, prepared by Dhanna Singh (AW-3), scale used is 1 inch = 100 meters and the distance between Grain Market and acquired land is about 3½ feet in the site plan. Calculated in this manner, the distance would come to about 4.2 kilometers. Moreover, the acquired land of judgment Ex. A-4 was situated within municipal limits of Kot Kapura. Acquired land in the instant cases is situated in Village Dhilwan Kalan. *Abadi* of Dhilwan Kalan intervenes the acquired land and Grain Market of Kot Kapura. The acquired land is one kilometer away on the other side from *abadi* of Village Dhilwan Kalan. In this view of the matter, judgment Ex.A-4 has no relevance in determining the market value of acquired land in the instant case. Even a small distance within municipal limits may result in vast difference in market value of land. Moreover, the acquired land involved in judgment Ex.A-4 was found suitable for residential and commercial purposes, in view of location thereof. The acquired land of that case was on the junction of two roads i.e.

Kot Kapura – Bathinda Road and Kot Kapura – Moga Road and there was also 3 karams vide kacha passage on third side of the said land. There were shops on both sides of Kot Kapura – Bathinda Road as well as Kot Kapura – Moga Road, besides FCI godown, petrol pump and bus stand near the said land. There was also a cinema hall on the Bathinda Road besides large number of buildings adjoining the acquired land. There were also shops in the acquired land of that case. Consequently, there is no comparison of the acquired land of that case with acquired land of the instant case.

Sale deed Ex.A-5 has also rightly been discarded by the Reference Court because the said sale deed pertains to a small residential plot in the *abadi*, whereas the acquired land is a big chunk of agricultural land situated about one kilometer away from *abadi*. Moreover, sale deed Ex.A-5 was executed about 1½ years after notification under Section 4 of the Act and the same could have been manipulated to claim enhanced compensation. In any event, the said sale deed is not comparable sale instance as it relates to a plot of *abadi* area.

Sale instances Ex.R-2 to Ex.R-4 produced by the respondents are somewhat comparable sale instances because the same relate to sale of agricultural land just 6-7 months prior to the date of notification under Section 4 of the Act. Land of these sale deeds has been depicted in site plan Ex. R-1 and the same is just near the acquired land. Land of sale deed Ex.R-2 even abuts the National Highway. According to the sale deeds Ex.R-2 to Ex.R-4, the market value of the land was Rs.23,000/- to Rs.24,000/- per acre only. However, these sale instances were ignored by the Reference Court because even the Land Acquisition Collector has awarded compensation at higher rate.

Learned counsel for the appellants next emphatically contended that the acquired land was located on National Highway and therefore, had potential value. Learned counsel for the appellants relying on four

judgments of this Court in the cases of Surat Singh vs. State of Haryana reported as 2000 (1) R.C.R. (Civil) 349, Bhulla Ram alias Bhola, Bhola Ram vs. State of Haryana reported as 1996 (1) R.R.R. 761, Binkal Kumar vs. State of Haryana and another reported as 1991 (1) R.R.R. 237 and Smt. Bindu Garg vs. State of Haryana reported as 1999 (2) R.C.R. (Civil) 261 contended that in view of location of the acquired land on National Highway, the land owners are entitled to enhanced compensation. The contention cannot be accepted because learned Additional District Judge, after taking into consideration the location of the acquired land on the National Highway, has enhanced the market value by Rs.7,000/- per acre for the acquired land, notwithstanding that no evidence of any comparable sale instances was adduced by the land owners. The compensation awarded by the Reference Court cannot be said to be less than the market value of the acquired land on the date of notification under Section 4 of the Act, in any manner. The Reference Court has already taken a favourable view for the land owners.

In view of the aforesaid, I find no merit in these appeals, which are accordingly dismissed.

May 26, 2009

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(L. N. MITTAL)
JUDGE